

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 729

To provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 24), 1995

Mr. BAUCUS (for himself and Mr. LOTT) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged

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## A BILL

To provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Trust Fund Restora-  
5       tion Act of 1995”.

### 6   **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) AIRPORT AND AIRWAY TRUST FUND.—The  
 2           term “Airport and Airway Trust Fund” means the  
 3           Airport and Airway Trust Fund established by sec-  
 4           tion 9502 of the Internal Revenue Code of 1986.

5           (2) HARBOR MAINTENANCE TRUST FUND.—The  
 6           term “Harbor Maintenance Trust Fund” means the  
 7           Harbor Maintenance Trust Fund established by sec-  
 8           tion 9505 of the Internal Revenue Code of 1986.

9           (3) HIGHWAY TRUST FUND.—The term “High-  
 10          way Trust Fund” means the Highway Trust Fund  
 11          established by section 9503 of the Internal Revenue  
 12          Code of 1986.

13          (4) INLAND WATERWAYS TRUST FUND.—The  
 14          term “Inland Waterways Trust Fund” means the  
 15          Inland Waterways Trust Fund established by section  
 16          9506 of the Internal Revenue Code of 1986.

17 **SEC. 3. BUDGETARY TREATMENT OF HIGHWAY TRUST**  
 18 **FUND, AIRPORT AND AIRWAY TRUST FUND,**  
 19 **INLAND WATERWAYS TRUST FUND, AND HAR-**  
 20 **BOR MAINTENANCE TRUST FUND.**

21          (a) IN GENERAL.—The receipts and disbursements  
 22          of the Highway Trust Fund, the Airport and Airway Trust  
 23          Fund, the Inland Waterways Trust Fund, and the Harbor  
 24          Maintenance Trust Fund—

25               (1) shall not be included in the totals of—

1 (A) the budget of the United States Gov-  
2 ernment as submitted by the President under  
3 section 1105 of title 31, United States Code; or

4 (B) the congressional budget (including al-  
5 locations of budget authority and outlays pro-  
6 vided in the congressional budget);

7 (2) shall not be—

8 (A) considered to be part of any category  
9 (as defined in section 250(c)(4) of the Balanced  
10 Budget and Emergency Deficit Control Act of  
11 1985 (2 U.S.C. 900(c)(4))) of discretionary ap-  
12 propriations; or

13 (B) subject to the discretionary spending  
14 limits established under section 251(b) of the  
15 Act (2 U.S.C. 901(b));

16 (3) shall not be subject to sequestration under  
17 section 251(a) of the Act (2 U.S.C. 901(a)); and

18 (4) shall be exempt from any general budget  
19 limitation imposed by statute on expenditures and  
20 net lending (budget outlays) of the United States  
21 Government.

22 (b) DISBURSEMENTS SUBJECT TO APPROPRIA-  
23 TIONS.—The disbursements referred to in subsection (a)  
24 shall be subject to appropriations.

1 **SEC. 4. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF**  
2 **AIRPORT AND AIRWAY TRUST FUND.**

3 (a) IN GENERAL.—Chapter 471 of title 49, United  
4 States Code, is amended by inserting after section 47129  
5 the following:

6 **“§ 47130. Safeguards against deficit spending**

7 “(a) ESTIMATES OF UNFUNDED AVIATION AUTHOR-  
8 IZATIONS AND NET AVIATION RECEIPTS.—Not later than  
9 March 31 of each year, the Secretary, in consultation with  
10 the Secretary of the Treasury, shall estimate—

11 “(1) the amount that would (but for this sec-  
12 tion) constitute the unfunded aviation authorizations  
13 at the termination of the first fiscal year that begins  
14 after that March 31; and

15 “(2) the net aviation receipts at the termination  
16 of the fiscal year referred to in paragraph (1).

17 “(b) PROCEDURE IF EXCESS UNFUNDED AVIATION  
18 AUTHORIZATIONS.—If, with respect to a fiscal year, the  
19 Secretary determines that the amount described in sub-  
20 section (a)(1) exceeds the amount described in subsection  
21 (a)(2), the Secretary shall determine the amount of the  
22 excess.

23 “(c) ADJUSTMENT OF AUTHORIZATIONS IF UN-  
24 FUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

25 “(1) DETERMINATION OF PERCENTAGE.—If the  
26 Secretary determines, in accordance with subsection

1 (b), that there is an excess amount with respect to  
2 a fiscal year, the Secretary shall determine the per-  
3 centage that the excess amount is of the sum of—

4 “(A) the amounts authorized to be appro-  
5 priated from the Airport and Airway Trust  
6 Fund for the next fiscal year; and

7 “(B) the amounts available for obligation  
8 from the Airport and Airway Trust Fund for  
9 the next fiscal year.

10 “(2) ADJUSTMENT OF AUTHORIZATIONS.—If  
11 the Secretary determines, in accordance with sub-  
12 section (b), that there is an excess amount with re-  
13 spect to a fiscal year, each amount authorized to be  
14 appropriated or available for obligation from the Air-  
15 port and Airway Trust Fund for the next fiscal year  
16 shall be reduced by the percentage determined in ac-  
17 cordance with paragraph (1).

18 “(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITH-  
19 HELD.—

20 “(1) ADJUSTMENT OF AUTHORIZATIONS.—Any  
21 amount authorized to be appropriated or available  
22 for obligation from the Airport and Airway Trust  
23 Fund that is reduced under subsection (c)(2) shall  
24 be further adjusted in accordance with paragraph  
25 (2) if, after an adjustment has been made under

1 subsection (c)(2) for a fiscal year, the Secretary de-  
2 termines that, with respect to the fiscal year—

3 “(A) the amount described in subsection  
4 (a)(1) does not exceed the amount described in  
5 subsection (a)(2); or

6 “(B) an excess amount determined under  
7 subsection (b) is less than an excess amount de-  
8 termined as a result of a previous determina-  
9 tion.

10 “(2) ADJUSTMENT.—Each amount that is sub-  
11 ject to a further adjustment under paragraph (1)  
12 shall be increased by an equal percentage deter-  
13 mined by the Secretary under paragraph (3).

14 “(3) PERCENTAGE.—

15 “(A) IN GENERAL.—Subject to subpara-  
16 graph (B), the percentage referred to in para-  
17 graph (2) shall be the maximum percentage  
18 that does not cause the amount described in  
19 subsection (a)(1) to exceed the amount de-  
20 scribed in subsection (a)(2).

21 “(B) LIMITATION.—The amount of any in-  
22 crease determined under this subsection may  
23 not exceed the amount of the corresponding re-  
24 duction under subsection (c)(2).

1           “(4) APPORTIONMENT.—The total amount of  
 2           any increases determined for a fiscal year under  
 3           paragraph (3) shall be made available to the Sec-  
 4           retary for apportionment. The Secretary shall appor-  
 5           tion the amount in accordance with this subsection.

6           “(5) PERIOD OF AVAILABILITY.—Any funds ap-  
 7           portioned under paragraph (4) shall remain available  
 8           for the period for which the funds would be available  
 9           if the apportionment were made under appropria-  
 10          tions and obligations for the fiscal year in which the  
 11          funds are apportioned under paragraph (4).

12          “(e) REPORTS.—The Secretary shall report to Con-  
 13          gress—

14               “(1) any estimate made under subsection (a);  
 15          and

16               “(2) any determination made under subsection  
 17          (b), (c), or (d).

18          “(f) DEFINITIONS.—In this section:

19               “(1) AIRPORT AND AIRWAY TRUST FUND.—The  
 20          term ‘Airport and Airway Trust Fund’ means the  
 21          Airport and Airway Trust Fund established by sec-  
 22          tion 9502 of the Internal Revenue Code of 1986.

23               “(2) NET AVIATION RECEIPTS.—The term ‘net  
 24          aviation receipts’ means, with respect to any period,  
 25          the amount by which—

1           “(A) the receipts (including interest) of the  
2           Airport and Airway Trust Fund during the pe-  
3           riod; exceeds

4           “(B) the amounts to be transferred during  
5           the period from the Airport and Airway Trust  
6           Fund under section 9502(d) of the Internal  
7           Revenue Code of 1986 (other than under sec-  
8           tion 9502(d)(1) of the Code).

9           “(3) SECRETARY.—The term ‘Secretary’ means  
10          the Secretary of Transportation.

11          “(4) UNFUNDED AVIATION AUTHORIZATIONS.—  
12          The term ‘unfunded aviation authorization’ means,  
13          at any time, the amount by which—

14               “(A) the total amount authorized to be ap-  
15               propriated or available for obligation from the  
16               Airport and Airway Trust Fund that has not  
17               been appropriated or obligated; exceeds

18               “(B) the amount available in the Airport  
19               and Airway Trust Fund at that time to make  
20               the appropriation or to liquidate the obligation  
21               (after all other unliquidated obligations at that  
22               time that are payable from the Airport and Air-  
23               way Trust Fund have been liquidated).”.



1 (b) CONFORMING AMENDMENT.—The analysis for  
 2 chapter 471 of title 49, United States Code, is amended  
 3 by adding at the end of subchapter I the following:

“47130. Safeguards against deficit spending.”.

4 **SEC. 5. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF**  
 5 **INLAND WATERWAYS TRUST FUND AND HAR-**  
 6 **BOR MAINTENANCE TRUST FUND.**

7 (a) ESTIMATES OF UNFUNDED INLAND WATERWAYS  
 8 AUTHORIZATIONS AND NET INLAND WATERWAYS RE-  
 9 CEIPTS.—Not later than March 31 of each year, the Sec-  
 10 retary, in consultation with the Secretary of the Treasury,  
 11 shall estimate—

12 (1) the amount that would (but for this section)  
 13 constitute the unfunded inland waterways authoriza-  
 14 tions and unfunded harbor maintenance authoriza-  
 15 tions at the termination of the first fiscal year that  
 16 begins after that March 31; and

17 (2) the net inland waterways receipts and net  
 18 harbor maintenance receipts at the termination of  
 19 the fiscal year referred to in paragraph (1).

20 (b) PROCEDURE IF EXCESS UNFUNDED AUTHORIZA-  
 21 TIONS.—If, with respect to a fiscal year, the Secretary de-  
 22 termines with respect to a Trust Fund that the amount  
 23 described in subsection (a)(1) exceeds the amount de-  
 24 scribed in subsection (a)(2), the Secretary shall determine  
 25 the amount of the excess.

1 (c) ADJUSTMENT OF AUTHORIZATIONS IF UN-  
2 FUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

3 (1) DETERMINATION OF PERCENTAGE.—If the  
4 Secretary determines, in accordance with subsection  
5 (b), that there is an excess amount with respect to  
6 a fiscal year, the Secretary shall determine the per-  
7 centage that the excess amount is of the sum of—

8 (A) the amounts authorized to be appro-  
9 priated from the Trust Fund for the next fiscal  
10 year; and

11 (B) the amounts available for obligation  
12 from the Trust Fund for the next fiscal year.

13 (2) ADJUSTMENT OF AUTHORIZATIONS.—If the  
14 Secretary determines, in accordance with subsection  
15 (b), that there is an excess amount with respect to  
16 a fiscal year, each amount authorized to be appro-  
17 priated or available for obligation from the Trust  
18 Fund for the next fiscal year shall be reduced by the  
19 percentage determined in accordance with paragraph  
20 (1).

21 (d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITH-  
22 HELD.—

23 (1) INCREASE OF AUTHORIZATIONS.—Any  
24 amount authorized to be appropriated or available  
25 for obligation from a Trust Fund that is reduced

1 under subsection (c)(2) shall be further adjusted in  
2 accordance with paragraph (2) if, after an adjust-  
3 ment has been made under subsection (c)(2) for a  
4 fiscal year with respect to the Trust Fund, the Sec-  
5 retary determines that, with respect to the Trust  
6 Fund and the fiscal year—

7 (A) the amount described in subsection  
8 (a)(1) does not exceed the amount described in  
9 subsection (a)(2); or

10 (B) an excess amount determined under  
11 subsection (b) is less than an excess amount de-  
12 termined as a result of a previous determina-  
13 tion.

14 (2) ADJUSTMENT.—Each amount that is sub-  
15 ject to a further adjustment under paragraph (1)  
16 shall be increased by an equal percentage deter-  
17 mined by the Secretary under paragraph (3).

18 (3) PERCENTAGE.—

19 (A) IN GENERAL.—Subject to subpara-  
20 graph (B), the percentage referred to in para-  
21 graph (2) shall be the maximum percentage  
22 that does not cause the amount described in  
23 subsection (a)(1) to exceed the amount de-  
24 scribed in subsection (a)(2) with respect to the  
25 Trust Fund.

1 (B) LIMITATION.—The amount of any in-  
2 crease determined under this subsection may  
3 not exceed the amount of the corresponding re-  
4 duction under subsection (c)(2).

5 (e) REPORTS.—The Secretary shall report to Con-  
6 gress—

7 (1) any estimate made under subsection (a);  
8 and

9 (2) any determination made under subsection  
10 (b), (c), or (d).

11 (f) DEFINITIONS.—In this section:

12 (1) NET HARBOR MAINTENANCE RECEIPTS.—  
13 The term “net harbor maintenance receipts” means,  
14 with respect to any period, the receipts (including in-  
15 terest) of the Harbor Maintenance Trust Fund dur-  
16 ing the period.

17 (2) NET INLAND WATERWAYS RECEIPTS.—The  
18 term “net inland waterways receipts” means, with  
19 respect to any period, the receipts (including inter-  
20 est) of the Inland Waterways Trust Fund during the  
21 period.

22 (3) SECRETARY.—The term “Secretary” means  
23 the Secretary of the Army.

24 (4) TRUST FUND.—The term “Trust Fund”  
25 means the Inland Waterways Trust Fund or the

1 Harbor Maintenance Trust Fund, as the case may  
2 be.

3 (5) UNFUNDED HARBOR MAINTENANCE AU-  
4 THORIZATIONS.—The term “unfunded harbor main-  
5 tenance authorizations” means, at any time, the  
6 amount by which—

7 (A) the total amount authorized to be ap-  
8 propriated or available for obligation from the  
9 Harbor Maintenance Trust Fund that has not  
10 been appropriated or obligated; exceeds

11 (B) the amount available in the Harbor  
12 Maintenance Trust Fund at that time to make  
13 the appropriation.

14 (6) UNFUNDED INLAND WATERWAYS AUTHOR-  
15 IZATIONS.—The term “unfunded inland waterways  
16 authorizations” means, at any time, the amount by  
17 which—

18 (A) the total amount authorized to be ap-  
19 propriated or available for obligation from the  
20 Inland Waterways Trust Fund that has not  
21 been appropriated or obligated; exceeds

22 (B) the amount available in the Inland  
23 Waterways Trust Fund at that time to make  
24 the appropriation.

1 **SEC. 6. ENFORCEMENT.**

2       An officer or employee of the United States Govern-  
3 ment who fails to comply with this Act and the amend-  
4 ments made by this Act shall be subject to the penalties  
5 specified in section 1350 of title 31, United States Code.

6 **SEC. 7. APPLICABILITY.**

7       This Act and the amendments made by this Act shall  
8 apply to authorizations and obligations made for fiscal  
9 years 1996 and thereafter.

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